

1 MELANIE C. LATRONICA,

2 Plaintiff,

3 v.

4 DOUBLE TREE BY HILTON, et al.,

5 Defendants.

6 Case No. [15-cv-01709-DMR](#)7 **ORDER DISMISSING CASE WITH
LEAVE TO AMEND**

8 Re: Dkt. No. 1

9 Plaintiff Melanie Latronica filed a Complaint [Docket No. 1] on April 15, 2015. Pursuant
10 to Federal Rules of Civil Procedure 12(b)(1) and 12(h)(3), the court **dismisses** the complaint for
11 lack of subject matter jurisdiction but grants Plaintiff leave to amend.¹12 Federal courts are courts of limited jurisdiction. They have no power to consider claims for
13 which they lack subject matter jurisdiction. *See Chen-Cheng Wang ex rel. United States v. FMC*
14 *Corp.*, 975 F.2d 1412, 1415 (9th Cir. 1992). Federal courts can only adjudicate cases that the
15 Constitution or Congress authorize them to adjudicate. Those cases involve diversity of
16 citizenship (where the parties are from different states), a federal question (arising under the
17 Constitution, laws, or treaties of the United States), or cases to which the United States is a party.
18 *See, e.g., Kokkonen v. Guardian Life Insur. Co. of Am.*, 511 U.S. 375 (1994). Federal courts are
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¹ A magistrate judge generally must obtain the consent of the parties to enter dispositive rulings
21 and judgments in a civil case. *See* 28 U.S.C. § 636(c)(1). However, in cases such as this one,
22 where the plaintiff has consented but not served the defendants, “all parties have consented
23 pursuant to 28 U.S.C. § 636(c)(1),” and a magistrate judge therefore “may conduct any or all
24 proceedings in a jury or nonjury civil matter and order the entry of judgment in the case.” *Gaddy*
25 *v. McDonald*, No. CV 11-08271 SS, 2011 WL 5515505, at *1 n.2 (C.D. Cal. Nov. 9, 2011)
26 (quoting § 636(c)(1)) (citing *United States v. Real Property*, 135 F.3d 1312, 1317 (9th Cir. 1995));
27 *Third World Media, LLC v. Doe*, No. C 10-04470 LB, 2011 WL 4344160, at *3 (N.D. Cal. Sept.
28 15, 2011); *see also Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (holding that magistrate
judge had jurisdiction to dismiss action as frivolous without consent of defendants because
defendants had not yet been served and therefore were not parties).

1 presumptively without jurisdiction over civil cases and the burden of establishing the contrary
2 rests upon the party asserting jurisdiction. *Id.* at 377. “If the court determines at any time that it
3 lacks subject-matter jurisdiction, the court must dismiss the action.” Fed. R. Civ. P. 12(h)(3). *See*
4 *also Franklin v. State of Or., State Welfare Div.*, 662 F.2d 1337, 1342 (9th Cir. 1981) (“A judge,
5 however, may dismiss an action *sua sponte* for lack of jurisdiction.”) “District courts have the
6 authority to dismiss complaints founded on ‘wholly fanciful’ factual allegations for lack of subject
7 matter jurisdiction.” *Franklin v. Murphy*, 745 F.2d 1221, 1228 (9th Cir. 1984) (citation omitted).

8 Here, the claims alleged by Plaintiff are clearly baseless and state no basis for this Court’s
9 jurisdiction. The Court is unable to discern from Plaintiff’s complaint what claim she is alleging
10 against whom, and what relief she is seeking from the Court. Over fifty individuals and/or entities
11 are named as Defendants (e.g., Judge Yvonne Gonzalez Rogers, Judge Anthony Ishii, Judge John
12 Kirihsara, the Xerox Corporation, “Gazarians nut company,” the FlanaganTzu Chi Buddhist
13 Association). Some are not identifiable, including “Robbie,” “Mango doe,” “The Marsh’s all,”
14 “Red Devil,” and “The Vances.” Many of the Defendants listed in the caption have no allegations
15 directed toward them. *See* Compl. at 1. The allegations against Defendants are entirely
16 incoherent, reciting claims of “bondage,” “burning the skin & eyes/Torture,” “non-stop identity
17 theft,” “chattel game-playing” and “neurocybernetics.” *Id.* Half a page of the Complaint is
18 simply a list of hotels in California, with no allegation of how these hotels relate to Plaintiff’s
19 claims. *Id.* at 3-4. The following sentences are typical of the remainder of the Complaint:
20

21 “Chattel personality capitalis of the head, deprived persons.
22 (lockheedmartin). Anima Mundi, Amima Modulator, violations of
23 the prefrontal cortex, medial temporal lobes and prefrontal lobes to
24 add to, Homeopathy experiments and gross labbing of the chattels,
25 capital punishment, Double Tree Imposters et al. **The only way**
these people can profit, is by destroying good people who are
blessed.” Compl. at 2 (emphasis in original).

26 “Technical aspect of and or informative language to use when
27 addressing internal technical violations to add to what’s known and
28 reminded about on page 7 of this pleading complaint, that Plaintiff
Miss Latronica must remind the court of the Court Jurisdiction to
relieve her of all of this, Plaintiff(s) request for order of the Court,
Legal Remedies and Judicial Remedies as authorized by the power
of the Court to do so.” Compl. at 4.

1 “The people who were fraudulent concealment and the destroying
 2 and profiting of f of chattels ML does and gross sick (rp). **Mass**
 3 **bodily destruction and gross inhumanity that's sick and**
 4 **dehumanizing beyond.**” Compl. at 6 (emphasis in original).

5 “The defendants are still causing harm at grocery stores with
 6 tampered with products placed on the shelves at the stores and at the
 7 store, recently Plaintiff was violated by one of the Defendants sons
 8 when switching the hot sauce he lied when Plaintiff ask him if he
 9 had done that he lied to her face that was mentioned so as a
 10 reminder. At target plaintiff was violated with vitamin water that
 11 was so sweet, it was poisoned with a from [sic] of rat poison.”
 12 Compl. at 8.

13 “(MTLINTHEMOTH)
 14 (VIBRATINGTECHCLDVCESONTHE TONG). -- Gross. Slavery
 15 to filthy and garbage.
 16 (WLKINGTLTS)(ANDRPNGDWNTHTHRTWITOUTACOND)
 17 including the doctors and the dentists are deserving of death.
 18 Gross (SS). Plaintiff didn't know why all the ML does were so
 19 destroyed before again as a reminder before she was put in them.
 20 So much inhuman dehumanizing suffering, and gross life
 21 deprivation and programming in their bodies. - One of the
 22 beautiful girls a ML does is 100% metal.” Compl. at 12 (emphasis
 23 in original).

24 In addition, the motion attaches filings from Plaintiff’s previous cases in this district before
 25 Judge Gonzalez Rogers and Judge Wilken, in state court, and in the Eastern District of California;
 26 photocopies of unidentified individuals; a dictionary definition of “chattel slavery”; a lease
 27 agreement between Plaintiff and Royal Palms Apartments; what appears to be a list of properties
 28 leased to Time Warner Telecom of Arizona LLC; a list of Stanislaus county judges; an
 29 encyclopedia entry on Borneo and another entry on cybernetics; information about the Xerox
 30 Corporation; and the results of Google searches. *See* Docket No. 1-1, 1-2, and 1-3.

31 Plaintiff lists several amendments to the U.S. Constitution, the United Nations Declaration
 32 of Human Rights, several federal criminal and civil statutes, *see* Compl. 18-19, though it is unclear
 33 whether she alleges that any of these were violated, by whom, and under what legal authority she
 34 is pursuing a claim for their violation. In her prayer for relief, Plaintiff states:

35 Plaintiff(s) Pleadings and Requests in accord with Law and Rights
 36 Mandatory is an absolute right to equitable remedy in the form of
 37 Injunctions: Prohibitory, Reparative, Preventative, and Permanent,
 38 that's Relief, **Justice and Restitution** and to be able to relocate and
 39 be safe and with the prosecution of the violators that's possible.
 40 Plaintiff will be starting her life with liberty and freedom?, Life is so

1 wonderful and is going to be better when: **finally never to be a**
2 **victim of these defendants ever again.** Plaintiff has the right to
3 **The release of Plaintiff's personal property, her life and her**
4 **family including (embros) the knowledge that her family won't**
5 **fall into the wrong hands. (Defendants have been mentally**
6 **torturing about Plaintiff(s) & (original) eggs, embryo's.**
7 Plaintiff(s) no longer, no more, not another day be subjected to the
8 Defendants Gross **Malice, Oppression, and Fraud.** The violating
9 of a person's abode and right to life including the chattels in a
manner that is forbidden is forbidden.

6 Compl. at 24-25.

7 Plaintiff's allegations are entirely incomprehensible and arise to the level of "wholly
8 fanciful" such that sua sponte dismissal for lack of subject matter jurisdiction is appropriate at this
9 stage. *Franklin*, 745 F.2d at 1228.

10 The court notes that Judge Gonzalez Rogers, who is named as a Defendant in this matter
11 (although the Complaint includes no specific allegations directed at her), has presided over two
12 cases filed by Plaintiff in this district, both of which were dismissed as frivolous. Judge Gonzalez
13 Rogers has repeated "caution[e]d Plaintiff Latronica that repeated frivolous filings may result in
14 imposition of a pre-filing order and a declaration that she is a vexatious litigant." *See Latronica v.*
15 *Halfhill, et al.*, Case No. 14-cv-4257-YGR, Docket No. 9 at 5 (N.D. Cal. September 30, 2014).
16 *See also Latronica v. United States et al.*, Case No. 13-cv-5685-YGR, Docket No. 40 at 3 n. 2.
17 Judge Gonzalez Rogers also noted that a number of other similar federal court actions had been
18 filed by Plaintiff outside this district and had been dismissed as frivolous. *Latronica v. Halfhill*,
19 Docket No. 9 at 5 (noting three cases filed by Plaintiff in the Eastern District of California).
20 Finally, Judge Gonzalez Rogers noted that Plaintiff has been declared a vexatious litigant by the
21 California state courts. *Id.*

22 Notwithstanding these circumstances, "a district court should not dismiss a pro se
23 complaint without leave to amend unless it is absolutely clear that the deficiencies of the
24 complaint could not be cured by amendment." *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir.
25 2012) (quotations omitted).

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1 The court therefore **dismisses** the complaint but grants Plaintiff leave to file an amended
2 complaint if she can allege sufficient facts to support a finding of subject matter jurisdiction. **By**
3 **no later than May 4, 2015**, Plaintiff may file an amended complaint that addresses the
4 deficiencies noted in this order.

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6 **IT IS SO ORDERED.**

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8 Dated: April 24, 2015

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DONNA M. RYU
United States Magistrate Judge